

Hospitals; nonprofit; no emergency rooms. A nonprofit hospital that is not required to operate an emergency room where a state or local health planning agency has found that this would unnecessarily duplicate emergency services and facilities that are adequately provided by another medical institution in the community is exempt under section 501(c)(3) of the Code. Rev. Rul. 69-545 amplified.

ISSUE

Does the nonprofit hospital described below qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code?

FACTS

A nonprofit hospital is identical to Hospital A, described in Situation 1 of Rev. Rul. 69-545, 1969-2 C.B. 117, except that it does not operate an emergency room. A state health planning agency has determined that the operation of an emergency room by the hospital is unnecessary because it would duplicate emergency services and facilities that are adequately provided by another medical institution in the community. The facts of Situation 1 of Rev. Rul. 69-545 are as follows:

Hospital A is a 250-bed community hospital. Its board of trustees is composed of prominent citizens in the community. Medical staff privileges in the hospital are available to all qualified physicians in the area, consistent with the size and nature of its facilities. The hospital has 150 doctors on its active staff and 200 doctors on its courtesy staff. It also owns a medical office building on its premises with space for 60 doctors. Any member of its active medical staff has the privilege of leasing available office space. Rents are set at rates comparable to those of other commercial buildings in the area.

The hospital operates a full time emergency room and no one requiring emergency care is denied treatment. The hospital otherwise ordinarily limits admissions to those who can pay the cost of their hospitalization, either themselves, or through private health insurance, or with the aid of public programs such as Medicare. Patients who cannot meet the financial requirements for admission are ordinarily referred to another hospital in the community that does serve indigent patients.

The hospital usually ends each year with an excess of operating receipts over operating disbursements from its hospital operations. Excess funds are generally applied to expansion and replacement of existing facilities and equipment, amortization of indebtedness, improvement in patient care, and medical training, education, and research.

LAW AND ANALYSIS

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense. In the general law of charity, the promotion of health is considered to be a charitable purpose. Restatement (Second) of Trusts, Secs. 368, 372; Bogert, Trusts and Trustees, Sec. 374 (rev.2d ed. 1977); IV Scott on Trusts, Secs. 368, 372 (3d ed. 1967). This principle is recognized by the Service in Rev. Rul. 69-545.

Section 1.501(c)(3)-(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for charitable purposes unless it serves a public rather than a private interest. An organization that promotes the health of a limited class of beneficiaries is serving the private interests of these individuals rather than a public interest, and therefore is not organized and operated exclusively for a charitable purpose. IV Scott on Trusts Sec. 372.2 (3d ed. 1967). However, the promotion of health, like the relief of poverty and the advancement of education and religion, is one of the purposes in the general law of charity that is deemed beneficial to the community as a whole even though the class of beneficiaries eligible to receive a direct benefit from its activities does not include all members of the community. The class must be sufficiently large, however, so that the community as a whole benefits. Restatement (Second) Trusts, Sec. 368, comment (b) and Sec. 372, comment (b) and (c); IV Scott on Trusts Secs. 368, 372.2 (3d ed. 1967). (See Rev. Rul. 69-545.)

In Rev. Rul. 69-545, after examining all the facts, it was determined that Hospital A promoted the health of a class of persons that was broad enough to benefit the community. A major factor in this determination was the operation by Hospital A of an emergency room open to all persons regardless of ability to pay.

Generally, operation of a full time emergency room providing emergency medical services to all members of the public regardless of their ability to pay for such services is strong evidence that a hospital is operating to benefit the community. Nevertheless, there are other significant factors that may be considered in determining whether a hospital promotes the health of a class of persons broad enough so that the community benefits.

The hospital in this case does not operate an emergency room because the state health planning agency has made an independent determination that this operation would be unnecessary and duplicative. Consequently, the hospital is unable to rely on the

operation of an emergency room open to all regardless of ability to pay as strong evidence that the hospital promotes the health of a sufficiently broad class of persons to benefit the community. Other significant factors, however, including a board of directors drawn from the community, an open medical staff policy, treatment of persons paying their bills with the aid of public programs like medicare and medicaid, and the application of any surplus to improving facilities, equipment, patient care, and medical training, education, and research, indicate that the hospital is operating exclusively to benefit the community.

Certain specialized hospitals, such as eye hospitals and cancer hospitals, offer medical care limited to special conditions unlikely to necessitate emergency care and do not, as a practical matter, maintain emergency rooms. These organizations may also qualify under section 501(c)(3) if there are present similar, significant factors that demonstrate that the hospitals operate exclusively to benefit the community.

Based on these facts, the nonprofit hospital described above qualifies for exemption from federal income tax as an organization described in section 501(c)(3) of the Code.

APPLICATION INSTRUCTIONS

Even though an organization considers itself within the scope of this revenue ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as an organization described in section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations. In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 69-545 is amplified.